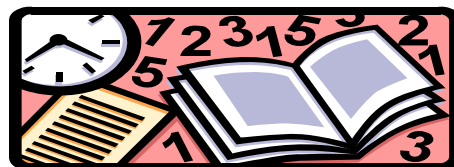


## CHAPTER IV. APPLICATION PREPARATION and PROGRAM GUIDANCE



### A. REQUIREMENTS PRIOR TO MAKING APPLICATION

1. **Local Public Hearings** - Each community, county, or AOG wishing to submit an application for CDBG funds is required to hold at least two public hearings, each at a different stage of the process. The purpose is to obtain citizen's views and to respond to proposals and questions. Public hearings must be conducted in a manner that will meet the needs of non-English speaking residents where a significant number of non-English speaking residents can reasonably be expected to participate. Accommodations must also be made for disabled persons.

**a. First Hearing:** This must be held **BEFORE** preparation of the pre-application. See **Appendix B** for sample notices. The purpose of the first public hearing is to:

- (1) Provide information to the public that includes at least the following:
  - ♦ The amount of CDBG funds expected to be available for projects for the new year.
  - ♦ The types of activities that may be undertaken with CDBG funds (Chapter III).
- (2) Identify and discuss the Community Development needs of the community.
- (3) Obtain citizens' views and suggestions regarding possible projects.
- (4) Respond to those suggestions and questions.

**b. Second Hearing:** This must be held **AFTER** an applicant is notified that their application has been funded by the Rating and Ranking committee (RRC) but **BEFORE** the final application is due in May. Applicants whose projects are not funded do not hold this second hearing. The purpose of the second public hearing is to:

- (1) Identify the project that has been approved for funding,
- (2) Identify the amount of funding to be received,
- (3) Respond to specific concerns and questions of citizens, particularly those who may be immediately impacted by the project.

**c. Documentation:** Applicants must include the following with their application:

- (1) Copies of the above public notices or postings,
- (2) Detailed minutes of the meeting. (See **Appendix B** for required format.) The minutes should include the following:
  - ♦ Names of all persons who attended (city officials by name and title and all citizens)
  - ♦ Amount of CDBG funding available, eligible activities, past projects accomplished with CDBG funds in the community and any activities which might displace LMI persons,
  - ♦ All comments, suggestions, and questions plus the responses given. (When responses must be provided other than at the hearing, that response should be made within 15 working days),

**d. Preparing Public Hearing Notices:** Sample Notices are **included in Appendix B.**

- (1) The first notice **MUST NOT** identify a specific project, but must invite ideas & suggestions from citizens.
- (2) Either in the first notice or during the first public hearing applicants must provide citizens with the address, phone number, and time for submitting complaints and grievances.
- (3) There must be reasonable notice of the hearings. These times have been established below:
  - ◆ Each hearing must be advertised **a minimum of 7 days PRIOR to the hearing.** (Hearing notices should not appear more than 14 days prior to a hearing.)
  - ◆ All applicants residing in a jurisdiction with the availability of a published newspaper **MUST** publish the hearing notices.
  - ◆ Applicants who do not have a newspaper **MUST** post the publication in the same manner as a publication. The posting must be accompanied by a Certificate of Posting (See Appendix B).

***\*POSTING IS NOT AN OPTION IN LIEU OF PUBLISHING WHEN THE APPLICANT HAS ACCESS TO A NEWSPAPER OF GENERAL CIRCULATION IN THEIR COMMUNITY. AN APPLICANT MAY POST AND PUBLISH IF DESIRED.***

- 2. Pre-application Workshops:** The state requires each AOG region to hold at least two public workshops yearly to assist prospective CDBG applicants and to take suggestions regarding the CDBG process. All open meeting law requirements must be adhered to.

These public meetings are referred to as "**How to Apply Workshops**" and are designed to educate applicants about national objectives, eligibility requirements, time frames, and the rating and ranking process. All major program requirements contained in this book are also discussed.

Notification of these workshops is made by each AOG office at least seven (7) days prior to the scheduled meeting and must be sent to all interested parties in the region, including cities and counties. Mailing lists for notification should include:

- ◆ Low-income advocacy groups;
- ◆ Special service districts;
- ◆ Housing authorities;
- ◆ Chambers of commerce;
- ◆ Economic development organizations;
- ◆ Other agencies identified in the area.

**\* It is mandatory that an "OFFICIAL" representative of each applicant attend a workshop in the applicant's region. Applicants wishing to attend another region's workshop must contact the state CDBG staff first.**

3. **Allowable Grant Administration Costs:** No more than 10 percent of a CDBG grant can be used for CDBG administrative costs. Administrative costs must be broken out from the rest of the project costs on the budget. The administration budget covers the cost of implementing a local project and may include such things as:
  - ◆ Salaries and wages of individuals working specifically on the CDBG project;
  - ◆ Travel costs incurred for official business in carrying out the project;
  - ◆ Costs involved in the preparation of the environmental review;
  - ◆ Other contract costs for professional services associated with program administration.
4. **Grant Administration Capacity:** All applicants **MUST** have the capacity to undertake and complete the project they are proposing. All first time applicants are assumed to have this capacity. If an applicant does not have the administrative capability to keep current fiscal records and pertinent support documentation, it must contract with an organization to administer the grant for them. The capacity of a repeat grantee to successfully carry out another CDBG grant will be evaluated by the RRC in conjunction with the state CDBG staff.
5. **Water /Waste Water Treatment Plant Project Plan Approval:** Culinary water and wastewater treatment plant projects must submit specifications to the Department of Environmental Quality (DEQ) for approval. The state CDBG staff must receive written approval from DEQ before any release of CDBG funds.
6. **Real Property Acquisition:** Applicants acquiring real property are encouraged to begin construction within five years of title transfer to meet national eligibility objectives. A CDBG applicant may only enter into an ‘option to purchase, or an earnest money agreement’, prior to *contract completion* and the rating and ranking of their application, under the following circumstances:
  - a. The specific property must be shown in the application to be essential to a projects’ success, or the only property available in the jurisdiction’s boundary for the type of project proposed.
  - b. The applicant may not obligate or refer to the use of CDBG funds in the earnest money agreement or option to purchase although a specific statement must be included regarding the satisfactory completion of a HUD environmental review.
  - c. The applicant must use non-CDBG funds to secure any such option or to establish earnest money that will not be reimbursed with CDBG funds even if the application is approved.
  - d. If the applicant wishes to use this procedure, notification must be made to the state CDBG office **prior** to the initiation of any such action and **prior** to the application submittal.
7. **Planning or Engineering Only Projects:** Title I of the Housing and Community Development Act requires that any community receiving a grant for planning activities must meet a national objective in the same manner as any other grantee. (See Chapter III - B)
  - a. **Planning Grants for Economic Development Only:** Economic development planning at the city or county level will be authorized for a maximum of two grant cycles (36 months). It is assumed that the planning efforts over this period of time will result in an organization and strategy for economic development in subsequent years. All subsequent economic development applications should include implementation efforts such as revolving loans,

economic development infrastructure improvement grants, beautification projects, storefront renovation and redevelopment projects. On-going planning updates, modifications and organization administration should be carried out by the city or county at their own expense after this 30-month time frame.

**National Objective Compliance for Regional planning grants** geared to specific communities must comply with national objective criteria.

- (1) Communities wishing to receive **physical planning assistance** will provide data to the region to show compliance with the requirements of the LMI national objective as described by this application manual. They may also submit information to satisfy the Slum/Blight Prevention/Elimination national objective as described. This documentation must be submitted to the state after the region has approved it. The state must then perform an independent review, prior to commencement of the planning project.
  - (2) The state will endorse requests for funds only when each specific project has met a national objective. When regions make requests for funds it will be necessary for them to identify which community(ies) are to receive assistance. The region will be required to account for staff time and other related costs for each planning project.
8. **Housing Applications:** Applicants interested in a housing project should review the list of eligible activities in Chapter V. Only agencies that have established policies and procedures and the necessary background and experience on the part of its staff are allowed to make application for rehabilitation activities. Additionally, the following basic criteria must be included in housing rehabilitation policies and procedures with respect to manufactured housing:
- Applicant must own the home and the property on which the home is located.
  - Applicant may participate in this program only once in a lifetime.
  - Manufactured homes built prior to 1978 are not eligible for rehabilitation.
  - Rehabilitation costs that exceed 50% of the value of the home are not eligible.
  - The maximum amount allowed on manufactured homes is \$7,500.
9. **Economic Development:**
- a. **Economic Development Applications:** Applicants proposing economic development projects must comply with the state economic development guidelines detailed in Chapter VI.
  - b. **Economic Development Set-Asides:** A region may elect to establish an economic development set-aside. This will guarantee that a certain level of funding will be spent on economic development within that region and allow competition among like applicants.
10. **Project Duration** - All CDBG contracts, except AOG contracts, will terminate December 31 of the year following contract award. Depending on how quickly grantees execute and return their contract, it will run about 18 months. Construction projects may not be able to complete their project within this time frame unless they meet various milestones. Extensions are discouraged, but possible. Any requests for extension will be based on how well a grantee has met the following milestones.

*Environmental review process completed 90 days from executed date of contract*  
*Engineering design and bid ready, specifications completed by January 31, 2010*  
*Advertisements for bids published prior to February 28, 2010*  
*Bid Award issued by April 15, 2010*  
*Notice to proceed issued by May 31, 2010*

The state staff will closely monitor each grantee's progress toward these deadlines. Failure to meet these deadlines will invoke the right to terminate the contract on the basis the project cannot be completed within the contract time limits. The state must give each grantee a 45-day notice of termination and if the grantee can meet the deadlines then the termination will be canceled and the project may proceed. The grantee may appeal termination notices. Appeals must be made in writing within 10 days following the receipt of the notice of termination. The CDBG Policy Committee will arbitrate appeals cases. The grantee does not need to be in attendance at the policy committee meeting and decisions can be made based on telephone polls, conference calls, faxes and E-mail. Non-construction projects may be extended on a case-by-case basis by the state staff based on need and grantee performance.

11. **Training:** Each grantee is required to attend a training workshop prior to their contract being executed. Experienced grantees that have demonstrated a capacity to manage and complete CDBG projects in a timely manner may be exempt from this training at the discretion of the state CDBG staff.
12. **Contract:** After grant funds are awarded by the RRC, the grantee will execute a formal contract with the state - June/July. This contract identifies specific CDBG contractual requirements including: Environmental Review Requirements, Federal Labor Standards, and Civil Rights.
13. **Prior Costs Incurred:** Except under special conditions (see "Pre-agreement Expenditures" below), any costs incurred prior to the execution of a contract between the grantee and state **ARE NOT ELIGIBLE** for reimbursement.
14. **"Pre-Agreement" Expenditures:** Based on amendments made to the State Small Cities CDBG regulations in 1992, there is an allowance, under certain conditions, for the commitment and expenditure of funds before a contract is executed between the state of Utah and a local government grantee. This commitment for expenditure of funds can only take place after the actual award of funds by the state after its review and approval of the application. Common activities that may be pre-approved include: holding workshops, engineering studies or purchasing equipment where advance purchase is required prior to delivery.
  - a. A written request from the grantee must be submitted to the state, signed by the chief elected official of the grantee agency, that fully explains the need for the expenditure, a description of the activity to be performed and why it must be done before the contract is executed. See the template example on the next page.
  - b. No expenditures may be incurred prior to completing the necessary environmental review and receiving an environmental release. The one exception is expenses related to preparing the environmental review. No pre-agreement is required to incur costs related to the environmental review.

Sample Pre-agreement Request

**SMITHVILLE**  
*A City of Smiths since 1901*

June 2, 2008

Cheryl Elliott, CDBG  
324 S. State Street  
Salt Lake City, UT 84114

Re: Pre-agreement for housing rehabilitation

Dear Cheryl:

Smithville Utah is requesting a pre-agreement to allow the City to begin incurring costs associated with this CDBG project prior to the execution of an official contract. This project consists of purchasing a piece of property which contains a two bedroom home, rehabilitating the home using non-CDBG funds and then renting the home to an eligible LMI family.

Smithville is in need of this agreement because of escalating property prices and the need to expend the rehabilitation grant funding prior to the end of the calendar year. At this point Smithville would like to secure purchasing rights to the property in order to begin the environmental process. We are also anxious to begin the CDBG acquisition procedure as soon as possible.

Smithville understands that only eligible costs can be reimbursed and that an environmental review and **release letter is required** before we begin the expenditure of **any funds associated with this project** and that **commitment of federal funds** is a violation of federal code and may result in Smithville forfeiting its right to federal funding for this project.

Sincerely,

Joe A. Smith, Mayor

- 15. Progress Reports:** A brief progress report describing the activities accomplished since the last Claim for Funds was submitted is required as part of each claim. Grantees that do not communicate with state staff and that have difficulty making progress on their project may be required to submit additional progress reports.
- 16. Program Monitoring/Technical Assistance:** Near the end of the CDBG project the state will monitor grantee performance. The purpose of this visit is to ensure that grantee files are complete. This is done on-site. As a rule, the state staff will schedule one visit for each grantee that will include financial as well as programmatic compliance monitoring. Detailed guidelines are contained in the CDBG Grantee Handbook.
- 17. Grant Close Out:** A close-out form must be submitted when the project is completed. The purpose of the close-out is to report the persons or households that have benefited from the project. This information is required by HUD.
- 18. Audits:** Each grantee that expends over \$500,000.00 in federal funds from all sources during their fiscal year is required to have a single audit performed in compliance with OMB Circular A-128. These audits are to be submitted to the state auditor's office in a timely manner. Grantees who do not submit audits in a timely manner may be subject to any of the following:
- a. Claims For Funds for any current contract will not be processed until the audit is received.
  - b. In severe cases the current contract may be terminated.
  - c. Future applications will be downgraded during the rating/ranking process.

After the audit has been received and approved by the state, and all criteria have been met, the CDBG contract will be officially closed.

## **B. COMPLETING THE APPLICATION**

**Applications must be submitted on-line no later than 5:00 PM, December 5, 2008. A hard copy of the application must be submitted to the local AOG office. The AOG may require an earlier submission date.**

1. **Application Preparation/Submission** – The State requires applicants to submit their applications electronically. Below is a brief outline of the procedures.

- Applicants must attend one of the “How to Apply Workshops” in order to be considered for funding
- Instructions are located in Appendix A of this manual.

The application along with any supplemental information required by each RRC, will be used to ensure that the proposed project meets all federal compliance requirements. The AOG’s will review each application. **Additionally, if threshold criteria have not been met by the deadline, the application will not be rated and ranked and will be eliminated from further competition.**

**State Review** – The state CDBG staff, upon request, will review the applications for eligibility and national objective compliance, prior to the rating and ranking process. Following regional prioritization, the state will review every application for eligible activities and national objective compliance.

**An applicant may submit more than one application.** (See specific Rating and Ranking policies for each in Appendix H).

2. Some projects (those that involve more than one legal entity) require a cooperative agreement. Please refer to Appendix G for a sample ‘agreement’ if the application involves more than one legal entity or a sub-recipient.
3. A Residential Anti-Displacement Plan is required for all applicants. Subsection 104(d) of the Housing and Community Development Act of 1987 states that grant assistance through Section 106 of the Act may be made only if the grantee/recipient certifies that it is following a "residential anti-displacement and relocation assistance plan." The provision of this plan shall be in addition to the requirements set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments of 1970 (URA) as amended by the Surface Transportation and Uniform Relocation Assistance of 1987. See Appendix F for a template. The plan must contain two components:
  - a) **A commitment to replace all low/moderate-income dwelling units** that are demolished or converted to a use other than low/moderate-income housing as a direct result of the use of CDBG assistance; and
  - b) **A commitment to provide relocation assistance.** A sample template Anti-displacement Plan is included as Appendix F.



## **C. ADMINISTRATION**

1. **Timely Distribution of Funds:** The state is required by HUD to ensure that CDBG funds are allocated and distributed in a "timely" manner. In order to achieve this, the state has established the following time frames that address the receipt of applications and contracts. CDBG grantees must adhere to the following timeliness requirements:
  - a) Grantees have until **JULY 1**, to sign and return all copies of the contract to HCD.
  - b) On a case by case basis, RRC's may allow a one month extension, until **AUGUST 1**, to grantees who are experiencing unexpected or unavoidable delays. Grantees experiencing these circumstances must notify their RRC before **JULY 1**.
  - c) All funds not under contract by **JULY 1**, will be returned to the appropriate RRC for reallocation, first to any partially funded project, and second, to the next highest-ranking project that was not funded by the region. The RRC has the month of **JULY** to complete this reallocation.
  - d) Any funds not reallocated by the RRC by **AUGUST 1**, will be returned to the state for reallocation during the month of **AUGUST**. The state will reallocate the funds to an approved project that did not receive full funding regardless of regional origin. However, should circumstances warrant, priority will be given to the originating region.
  - e) Projects with other funding sources in addition to the CDBG grant must demonstrate that they are actively seeking the additional funds needed to complete the project.
    - ✓ If additional funds have not been secured by **JULY 1**, grantees may, after notifying and receiving permission from their RRC, have the months of **JULY, AUGUST and SEPTEMBER**, to obtain **DEFINITE COMMITMENT** from other funding sources.
    - ✓ There are varying time frames and unexpected delays inherent with other funding agencies. Therefore, after **SEPTEMBER 30**, the RRC, in conjunction with the state, will determine necessary or requested extensions on a case-by-case basis. If the additional funds cannot be obtained within the time permitted, the RRC must reallocate the funds to other projects.
2. **Five Percent Withholding:** On all projects, the state reserves the right to withhold 5 percent of the CDBG grant amount pending a satisfactory final programmatic/financial monitoring review.
3. **Cost Overruns:** The CDBG program will not fund cost overruns. However the RRC may provide additional funding due to a judgment against the grantee in a court of law. If a grantee, due to litigation, is required to pay damages or other costs directly related to a project partially or wholly funded by the CDBG program and is in full compliance with the regulations, the RRC may provide additional funding to satisfy the judgment. The funds must come from the regular yearly funding allocation to that region and be considered on its merits as a new applicant along with all other projects. The only other allowance for payment of cost overruns is if the RRC has included that as part of its emergency funding criteria.

4. **Fund Leveraging:** The state's role in the CDBG funding process is to provide assistance to grantees in leveraging other available financial resources. The principal agencies cooperating in this process are listed below:
- ◆ Division of Water Resources
  - ◆ Division of Environmental Quality (DEQ)
  - ◆ USDA Rural Development (RDA)
  - ◆ Community Impact Board (CIB)
  - ◆ Economic Development Administration (EDA)
5. **Federal Labor Standards:** If the estimated cost of a project is less than \$49,000 for a building improvement or \$157,000 for infrastructure the city or county may make the improvements without calling for bids. For projects in excess of that amount, a project must be bid out in conformance with Utah Code Section 63G-6-104. In the event a construction project is estimated to be more than \$2,000.00, all specifications must include Davis Bacon Labor Standards and all bids received must reflect the same unless donated or force account labor is to be used. All construction projects must have a pre-construction conference. The state must be invited to attend in order to provide technical assistance and assure an understanding of, and compliance with, all federal and state regulations.
6. **CDBG/HOME Program Administration** CDBG funds cannot be used to fund HOME program administration. CDBG funds can be used to pay program delivery costs in the HOME program. The difference between administration and program delivery is not strictly defined. The best way to look at it is - if a cost can be identified to a specific project, it is program delivery and can be charged to CDBG. If a cost was incurred for a mixed function such as accounting, budgeting, coordinating, and program management, it is an administrative cost and should be charged to HOME administration. CDBG funds used for HOME program delivery are subject to CDBG eligibility and national objective requirements.